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MINUTES

The Town of Manteo Planning and Zoning Board met in Regular Session on Tuesday, May 11, 2021 at 6:00 p.m. at the Manteo Town Hall, 407 Budleigh Street

The following members were present:

Chairperson Sherry Wickstrom
Member Fields Scarborough
Member Jamie Daniels
Member Hal Goodman
Member Nicole Northrup

The following members were absent:

Staff present at the meeting:

Melissa Dickerson, Planner
Michele Bunce, Program Manager
Jamie Whitley, Town Clerk

Also present at the meeting:

Sumit Gupta (SAGA)

Chair Wickstrom called the meeting to order and conducted a roll call at 6:00 pm.

SUBJECT: Adoption of Agenda as presented or amended

MOTION: A motion was made by Member Goodman and seconded by Member Daniels to adopt the agenda as presented and was approved by the following vote: Ayes: Chair Wickstrom, Members Scarborough, Goodman, Northrup, and Daniels. Nays: None. Absent: None. **Motion carried unanimously.**

SUBJECT: Approval of Minutes Regular Meeting April 13, 2021

MOTION: A motion was made by Member Goodman and seconded by Member Northrup to approve the April 13, 2021 minutes as presented and was approved by the following vote: Ayes: Chair Wickstrom, Members Scarborough, Goodman, Northrup, and Daniels. Nays: None. Absent: None. **Motion carried unanimously.**

PUBLIC COMMENTS

Members of the public are invited to address the Planning Board. Public Comment is not intended to require the Board to answer any impromptu questions or to take any action on items brought up during the public comment period. Speakers will address all the comments to the Board as a whole and not one individual member. Discussions between speakers and members of the audience will not be allowed. Time limits are 3 minutes per person or 5 minutes per group. Please come forward to the podium and identify yourself so that your statements can be recorded.

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Malcolm Fearing, Manteo, NC: He stated that he is speaking on the text amendment consideration that is before the Board tonight. He had commented about the change (to the amendment) at the last meeting. He stated that his math isn't very good but he knows that when you go from 6 to 18 that is a 300% increase; and that is what is being requested. He stated that when you go from a 20,000 square foot building to a 32,000 square foot building, that is 12,000 additional square feet; and that is substantial. He had said before that the applicant came to town with the Cedar Bay development and did a wonderful job. He stated that there could be some improvements to some of the other projects like Marshes Light, where there are issues of maintenance. He stated that they are requesting the town taxpayers to fund that maintenance. He doesn't think that is the normal course of the town's business to be maintaining private property. He served on a working group over 20 years ago and came up with a plan that was vetted by the community and some of the plan was adopted and some of the plan was not. They had another group work on the 20-Year Plan and one of the subjects was housing. He stated that at no time did anybody come to that group public meeting and suggest these types of density changes in our town. He understands that the Board is going through a rework of the Town's Zoning Ordinances and the Comprehensive Plan that is a legislative mandate. He stated that if we are going to discuss major changes to a plan that has been well vetted, has been worked on for 20 years, and has recently been reviewed, then could we not wait to review any substantial changes to our businesses within that comprehensive network. He stated that two developments are coming forward and working through the town. He represents a family development that is trying to do one in Bowsertown that has 16 residential units and 2 commercial units. They are attempting to meet the ordinance requirements exactly. They don't want a greater density even though it would bring greater profits. He stated that is not their desire; they desire to be respectful of the wishes of the townspeople and the work that they have done and coming up with a comprehensive plan. He does not fault the applicant for trying to make profits because that is what fuels our economy. He stated that he has run a non-profit most of his life. He stated that the applicant's partner stated that they had developed 7,000 units and he figured that if you multiply \$50,000 per unit that would be \$300 million. He stated that closer to \$100,000 a unit would be around \$700 million. He stated that they are not doing this because they are losing money. After all, it is very profitable. He stated that he has nothing against making a profit but suggested that the Board slow down and consider the applicant in the comprehensive planning that they are doing now. Mr. Fearing stated that he would give Mr. Gupta a copy of the Town's ordinances so that he can read it and see what is approved and not approved in the Town. He stated that this could help him before he buys additional property in the Town of Manteo.

John Anderson, Peninsula Subdivision, Manteo, NC: He had a slide show presentation. He has been a property owner since 2005 and a homeowner since 2009. He was asked by his neighbors in the Peninsula Subdivision to represent them tonight. He stated that his subdivision has a mix of young people, young couples, retirees, year-round residents, and individuals that have invested in that subdivision. He stated that they are good stewards and no one knows the stormwater issues or the traffic issues on Russell Twiford Road like they do. He stated that they experience it regularly. He stated that the Planning Board is being asked to cast aside a long-standing zoning ordinance that was crafted strategically with input from the community. He stated that this long-term plan was designed to fulfill this

community's vision for the entryway of Manteo's 1.9 square miles. He stated that they are also being asked to abandon the ordinance and the community's small-town vision so that a regional developer can secure federal tax credits and profit from high-density development and construction of oversized buildings. He stated that he would argue that this is not the "Manteo Way of Building" just because you paint and put siding to make it look like a coastal community. He stated that we are talking about 32,000 square feet instead of 20,000 square feet and high density instead of the 6 units per acre limit that is there now. He stated that if the Board approves this amendment, then they will knowingly create traffic, stormwater, aesthetic, and light pollution problems. He stated that they are going to challenge this town's wastewater capacity and these are the unintended consequences of approving this variance. He asked them to ask themselves if they are going to trade all of these issues for 24 affordable apartment units and from what he reads from the numbers, they are not that affordable. He stated that it will not solve Dare County's workforce issue because the current labor shortage is not due solely to the lack of affordable housing; there are a lot of factors at play. He asked what has changed since the zoning text amendment was denied on March 9th? He stated not too much. He stated that they are opposed to this zoning text amendment. He stated that we now know that the Taft-Mills Group, a regional developer, has come because they specialize in securing federal money and building large apartment complexes. He stated that they have confirmed that they want to open Manteo's entryway and put large apartment building complexes there that are more suited to Raleigh, Charlotte, and Atlanta. He stated that they want to raise the rents by 4% per year and that challenges the affordability concept. He put together a chart that showed the impacts on:

- Density: 6 units per acre to 18 units per acre would be a 200% increase.
- Scale: 20,000 square feet to 32,000 square feet would be a 60% increase.
- Traffic: About 44 residential vehicles to about 152 residential vehicles would be a 246% increase.
- Lot Coverage: 55% lot coverage to 65% lot coverage would be an 18% increase.
- Inclusionary Bonus: One market-rate unit for each affordable unit to two market-rate units for each affordable unit (48 market-rate units/24 affordable units) would be a 100% increase.
- Affordability: Annual rent escalation would have an impact of a 4% increase per year.

He stated that at a time like this when Manteo is examining its zoning policies and updating its long-term plan, why blow up the process with the density and scale demanded in this zoning text amendment? He stated that approval of the zoning text amendment sets a precedence and open's Pandora's Box big city development when the town says it wants to preserve a small-town culture. He stated that it's time to walk the talk. He asked the Board to look at his last slide and see what Manteo has done relative to Dare County on affordable housing. He stated that Manteo per square mile has 229 times more affordable apartment units than the remainder of Dare County whether you put it per square or thousand people.

Jeanine Emery, Vista Lake, Manteo, NC: She is new to the area from Cleveland. She stated that the idea of affordable housing is concerning for everyone and it is something that is going to have to be addressed. She stated that she understands the concern of the people at

the Peninsula because the people at Vista Lake were concerned when Mr. Fearing put in the campgrounds. She stated that they had a concern about the vehicle traffic going in and out down by the grocery store. She stated that she supports doing something in Manteo not necessarily this particular thing but something reasonable for people that have to live here and work in our community and help us.

Jennifer Parser, Peninsula Subdivision: She stated that she is a lawyer that has recently decided to retire. She is turning 70 and has practiced law for 43 years. For her, it was the small-town culture of Manteo because she grew up in a little town in Connecticut on the long island sound. The long-term vision of Manteo is what makes the town truly unique on the east coast. She looked from Florida to Connecticut and Manteo is unique. She stated that the previously mentioned precedence is a dangerous one. Dare County has 1,562 square miles of space and Manteo the Town has 1.9 square miles of space. She respectfully submitted that if proper research is done there are locations for affordable housing and that this variance not be allowed, since it was not produced by the community to preserve this community.

FOR DISCUSSION

SUBJECT: Discussion of Housing

Town Planner Dickerson presented the Board with a presentation on housing.

Comprehensive Development Code

- 2005 Manteo Plan Update
- 2005 Design Guidelines
- The Manteo Way of Building
- CAMA Land Use Plan
- Manteo Zoning Ordinance

Land Use Plan

The Town's current policies are the result of community planning specifically through the process of developing the town's Land Use Plan. She quoted page 1 of the 2007 CAMA Land Use Plan, "The residents of Manteo have long played a distinctively active role in planning. This history and the survey data associated with each past planning process provided a detailed picture of how Manteo has developed over time and how the community values have remained pillars for town planning." For the 2007 CAMA Land Use Plan process, three community meetings were held to update the community goals based on new information, to correct the maps required by the CAMA process, to evaluate growth alternatives through 2020, and to present and discuss the results of the community survey. The work done on the Land Use Plan was done more than 14 years ago and it is one of the tools that the Planning Board uses to guide recommendations that are made to the Board of Commissioners. She stated that over the past 14 to 15 years, market conditions have certainly changed.

Zoning Code

The Town of Manteo Zoning Code guides the Planning Board, staff, development approvals, and recommendations made to the Board of Commissioners.

Ms. Dickerson gave definitions and clarified text and showed picture examples of each.

What is a Dwelling Unit?

- *Dwelling unit.* One room, or rooms connected together, constituting a separate, independent housekeeping establishment for one owner occupancy, or rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities for a single family.

What is an Accessory Dwelling Unit?

- *Accessory dwelling unit.* A secondary dwelling unit inhabited by members of the household or rented like an apartment. To insure that an accessory dwelling unit is secondary to the primary residence and not a duplex, it is subject to the following restrictions:
 - (1) Only one accessory dwelling unit may be permitted on a lot.
 - (2) Accessory dwelling unit may be attached (located in the principal residence) or in a detached structure on the lot providing requirements for the lot coverage and setbacks for the district are met. To encourage the preservation of the town's historic outbuildings, an accessory building existing at the time of the adoption of this ordinance, may be converted into an accessory dwelling unit provided percentage of lot coverage does not exceed the maximum allowable.
 - (3) Either the primary residence or the accessory dwelling unit shall be occupied by an owner of the property.
 - (4) Accessory dwelling units shall not be larger than 50 percent of the living area of the primary residence or 600 square feet, whichever is smaller.
 - (5) One additional off-street parking space shall be provided for the accessory dwelling unit.
 - (6) Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the primary residence.
 - (7) A detached accessory dwelling unit shall be either one- or one-and-one-half story.

What is a Hotel Room?

- *Hotel room.* An overnight accommodation rented by the night, in conjunction with an on-premises public reception and lobby space, that does not have a cook-top or range and is not intended for extended stay. If a range or cook-top are installed the accommodation it shall be considered a dwelling unit.

What is an Apartment?

- *Apartment.* A portion of a building used or designed as a residence for one or more housekeeping units, living independently of each other; contained under one roof;

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individual units being connected by a dividing partition or having the ceiling structure of the lower unit as the floor structure of the unit above.

In 1982, the Town of Manteo Board of Commissioners voted for a property exchange to sell town-owned property to Mr. John Wellons for low-income, elderly, and handicapped housing if they obtained 202 Funding from HUD (United States Department of Housing and Urban Development). Today, we have Harbortowne and Bay Tree because the town conducted this land exchange in 1982.

The 20-Year Plan working group had a subcommittee that reviews housing and they noted the following:

- The previous survey results had strong advocacy for lower density in Town.
- The current zoning rules about housing above commercial units.
- The plan recognized the lack of land available to be developed in Town.
- Short-term rentals are impacting housing stocks.

There is much to consider when thinking about how Manteo regulates development. The Town offers a density bonus in the affordable housing ordinance. However, that section of the ordinance does not consider short-term or long-term rentals and only applies to units for sale.

This is an issue that is worthy of a deep dive. She suggested that the Board start by looking at the residential over commercial rules and crafting an ordinance that allows for total residential complexes and not requiring the first floor be commercial; as a way to ease development tension.

Chair Wickstrom stated that the Town had some very creative affordable housing concepts and ideas that were developed. She stated that having an inventory would be helpful.

The consensus of the Board was to keep the housing discussion on the agenda. Ms. Dickerson asked the Board to send her anything that they want to be researched and she will bring it back to them.

NEW BUSINESS

SUBJECT: Zoning Map Review

Ms. Dickerson introduced the updated zoning map to the Board. She explained that the old map had very similar colors and no street names, which made it difficult to read. It includes the newly annexed property as well. A lot of work went into making this.

MOTION: A motion was made by Member Daniels and seconded by Member Goodman to approve the updated Zoning Map and recommend to the Board of Commissioners and was approved by the following vote: Ayes: Chair Wickstrom, Members Scarborough, Goodman, Northrup, and Daniels. Nays: None. Absent: None. **Motion carried unanimously.**

SUBJECT: Review of Zoning Text Amendment Application to add "Apartment Complexes" and establish zoning regulations for Apartment Complexes in B-3 Entrance District.

Chair Wickstrom gave the Board a summary of the action that has been taken so far for the Zoning Text Amendment to add "Apartment Complexes" to definitions and establish zoning regulations for Apartment Complexes in the B-3 Entrance District. She stated that the Planning and Zoning Board recommended denial of the amendment at their March 9th meeting and between that meeting the Board of Commissioner's May 5th meeting, the applicant submitted additional documents. The additional documents include a 20-page attachment that now has a clear definition of density that is 18 units per acre or 72 apartment units as well as other changes. The Board of Commissioner's sent the application and the additional documents to the Planning Board for a recommendation and that is what the Board has before them now.

Ms. Dickerson provided the Board with a staff report and a matrix. She started with attachment 5. She informed the Board that there are surrounding properties to this property that is in unincorporated Dare County and the County's Zoning Ordinance states that the maximum dwelling density for multi-family structures shall not exceed 10 units per acre. It is important to know that the County, on the adjacent property, would not have a density that would allow for 18 units per acre and it is next to the subject property.

Attachment 5 is a list that compares what was considered at the last meeting versus what is being asked for now.

- The proposal would exceed the 20,000 square foot capacity.
- The lot coverage would be 65% when the current lot coverage for multi-family is 35%. The current lot coverage for mixed-use residential above commercial is 55% and Ms. Dickerson does not believe that this is what this proposed development is.
- There was no cap on density before and now they are requesting 18 units per acre. The current density is 6 units per acre and that is the same for mixed-use residential over commercial.
- The applicant sent emails on April 18 and the 26th with additional documents and changes to the application package. They added the term "apartment complexes" to the inclusionary and affordable housing ordinances. These ordinances are in the Town's codified ordinance and the zoning ordinance. The applicant asked to change section 4 in the codified ordinance and not have those changes be in the zoning ordinance.
- A for rent scenario is not currently applied in the affordable housing ordinance so they requested to change that.
- They proposed an amendment to the density bonus to allow for 2 market-rate units for each affordable unit. The current density bonus allows for 1 market-rate unit for each affordable unit but it does not apply to rental units.
- They requested to add the following language for affordable apartment complex rental units: Initial rental rates for affordable apartment units shall be determined by

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this calculator LIHTC for the year that the development is approved by the Board of Commissioners using 80 Area Medium Income (AMI) and the rental rates will increase by 4% a year thereafter.

- Ms. Dickerson noted that the definition of what LIHTC or what the income calculator is needed to be added if this is approved.
- Adding for rent affordable apartment complex units, eligible households or individuals that meet 80% of HUD AMI criteria for affordable apartment complex shall be permitted to make an application for an affordable rental unit. That does not currently exist in the ordinance.

Mr. Sumit Gupta, SAGA Construction, introduced himself. He was hoping to have a discussion today about the amendment. He stated that he looked at the area and the possible options. He stated that the text amendment it's perfect and he welcomes any conversation or exchange. He stated that Salt Meadow Landing was previously approved on this site and it allowed up to 70% lot coverage bonuses. He described the Salt Meadow Landing Project. He was approached by the County and other people about this possibly being a site for affordable housing. He doesn't see how his development has more impact on traffic, light, noise, or lot coverage than what can be done on this site or what was previously approved for this site. The parcel next to his is zoned industrial. He stated that the current rules for multi-family allow for a density bonus of 1 for every affordable unit. This does not cover rentals but building for sale units you can get up to 12 units. They are asking for two additional market-rate units for affordable rentals. He stated that LITC is low-income tax credits. He stated that he presented the text amendment as if he did not get any subsidization. He is thinking of a way to get apartments here that can be economically feasible. He stated that for this to happen he can't see hitting those price points with all affordable units. He stated that under his proposal, only 24 units would be affordable, and affordable is a relative term. They used HUD to define the term of affordability and the rates. He welcomes any conversations about affordability. He addressed the changes that they are asking for. He stated that the change in building size came from working with the Taft-Mills Group. They educated him on how to build these types of units and the formulas used to build them. Those buildings are under 32,000 square feet but that includes the heated and unheated space of the entire building. He believes that he can make it work within the 20,000 square feet but if he pursues that then the Taft-Mills Group will probably not be a part of this project anymore. He stated that he may go away from trying to get the tax credits. He has been thinking about it and he is willing to have a conversation about going to 20,000 square feet because he would like to pursue this as apartments. They narrowed the text amendment to the B-3 district and a lot with a minimum of a four-acre size so that the impact would be limited to this property and maybe one other. He stated that they will have to go through a State Stormwater plan and this proposal will not make the stormwater worse. He stated that if the plan is approved then it will have to come before the Planning Board and the Board of Commissioners. He stated that this may not be the site but there are very few sites in Dare County. He stated that there are not even a dozen properties. He stated that he was not planning to build apartments here when he put this property under contract. He was approached by the County and this group that was doing a study. He stated that the idea of apartments came afterward and they took a stab at a text amendment that needs to be scrutinized and looked at very closely. He stated that this is a starting point and

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he doesn't mind spending more time if this is a desire of the Board but he doesn't want to spend months and months on this.

Member Daniels asked if Mr. Gupta recalls that there was a light issue with Salt Meadow Landing.

Mr. Gupta responded that he was not aware of a light issue. The site got NCDOT (North Carolina Department of Transportation) approval, was annexed in Town, and had water and sewer allocations. It is his understanding was that 2008 happened and a lot of things died down.

Member Daniels asked about the density of getting one additional unit for 6 units so it would be 7 units.

Mr. Gupta stated that his understanding was that you get one unit market unit for one affordable unit so it would be 6 units and then 12 units.

Ms. Dickerson read Section 4-6. - Density bonuses – "For all covered developments under this chapter, a density bonus shall be provided equal to one market-rate unit or lot for each affordable housing unit or lot. Under no circumstances may a single-family lot contain less than 6,000 square feet unless approved by both the planning board and the town board of commissioners."

Member Goodman was concerned about flooding because there are ground units on this development and the current elevation of that lot is about 6 to 7 feet and we have had floods up to 8 feet elevation 8. He asked if the building is raised three feet higher including the one-foot freeboard to meet the 8-foot requirement of the old flood map, would the building still be able to fit three stories?

Mr. Gupta replied yes because it is 35 feet to the top plate. He stated that this property is in the X Flood Zone right now but they will look at that.

Member Goodman told Mr. Gupta not to believe that and he had another concern, which was the traffic. He doesn't understand how NCDOT would allow a curb cut into that access where people will have to decelerate from going 55 miles per hour. He asked if Mr. Gupta has discussed this with NCDOT.

Mr. Gupta stated that the property had NCDOT approval prior. He stated that this is a good point and it has to be addressed no matter what is built there.

Member Goodman stated that traffic has increased there. He stated that he doesn't feel that this piece of property is the right place to put 72 units. The 65% lot coverage is a concern for stormwater and possible runoff from the parking lot into Shallowbag Bay. There was a lot of time and effort spent cleaning up Shallowbag Bay.

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Mr. Gupta stated that any development has an environmental impact but the State has some tough requirements when it comes to stormwater. The State Stormwater permit will address these concerns. It's a commercial site and it can have up to 70 % lot coverage.

Member Goodman disagreed and said that the site is not commercial but residential because apartments are residential.

Member Daniels stated that he doesn't think that this site is appropriate but he would like to work with Mr. Gupta in the future on affordable housing because he knows his stuff. He stated that the ordinance was written for 7 units per acre with the density bonus, not 12 units but he understands why Mr. Gupta thought that. This has only applied to subdivisions before now.

Member Northrup appreciates that Mr. Gupta wants to do something about affordable housing. She stated that she just retired as a teacher for Dare County and as a single person she would have a hard time affording the one bedroom at this affordable rate. She understands the formula but for a cafeteria lady or a fireman, they couldn't afford the one unit. Affordable to someone her is like \$800 a month not over \$1,000 for a one-bedroom. She understands what he is trying to do and she commends him for it but this is not the right site. Even the affordable rates are not affordable.

Chair Wickstrom asked about the safety of cars because of the location of the site between Hwy 64 and Russell Twiford Road. She asked if there was any information on how the cars will flow at that site.

Mr. Gupta stated that he is not an expert but he thinks he recalls Taft-Mills saying it may be 5 trips a day. There are national statistics but he doesn't have them with him. He was going off of what was previously approved there.

Chair Wickstrom stated that when it comes to affordability in Dare County when you do 80% of median annual income gross not net then it is \$47,505. She stated that it doesn't include taxes, FICA, or utilities. She stated that if you look at the three-bedroom with a 4% increase it only takes a handful of months to be close to \$2,000 a month for rent. She stated that we cannot assume that people's incomes will go up 4% each year. She didn't want people to get their hopes up that these units will be affordable and then in a handful of years they are no longer affordable. She suggested to Mr. Gupta to make the building look like something that looks more like home here.

Member Goodman read the Top 10 Land Use Plan goals.

Member Daniels stated that if we look at the 22 changes that the applicant is asking for, do they meet the intent of the ordinance. In his opinion, it does not.

MOTION: A motion was made by Member Daniels and seconded by Member Goodman to not recommend approval of the amendments because they are inconsistent with the statements of the intent in B3 and to adopt the consistency statement that the amendment is inconsistent with the 2007 Land Use Plan and was

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approved by the following vote: Ayes: Chair Wickstrom, Members Scarborough, Goodman, Northrup, and Daniels. Nays: None. Absent: None.
Motion carried unanimously.

SUBJECT: Discussion of Stormwater, Fill and Runoff Management

The Board discussed fill and stormwater.

Member Goodman proposed that fill have a setback limited to 5 feet, with a 3:1 ratio slope, and no closer than 5 feet of the property line.

The Board also likes the idea of a Land Disturbance Permit.

BOARD COMMENTS

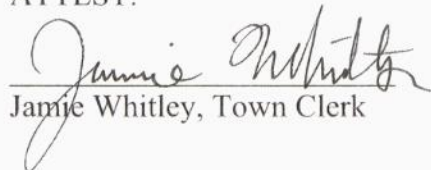
The Board thanked Mr. Gupta for coming and hoped that he would come back.

There being no further business to come before the Board or other persons to be heard a motion was made by Member Goodman and seconded by Member Northrup to adjourn the meeting at 7:45 p.m. and was approved by the following vote: Ayes: Chairman Wickstrom and Members Scarborough, Goodman, Northrup, and Daniels. Nays: None. Absent: None.
Motion carried unanimously.

This the 11th day of May 2021.


Sherry Wickstrom, Chair

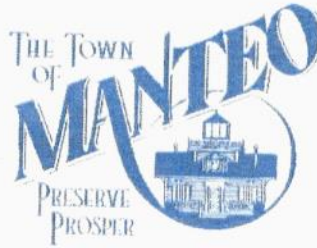
ATTEST:


Jamie Whitley, Town Clerk



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Consistency Statement:

The Town of Manteo Planning and Zoning Board finds the action to amend Article IX Entrance District of the Town of Manteo's Zoning Ordinance to be inconsistent with the Town's 2007 Land Use Plan. The proposed text amendment is a deviation from the Town's density rules, as there is a certain density per acre established for residential uses in each zoning district in the Town of Manteo's zoning ordinance. The density requirements included in the Town's ordinance are an important tool in how the Town of Manteo manages growth and wastewater treatment capacity.

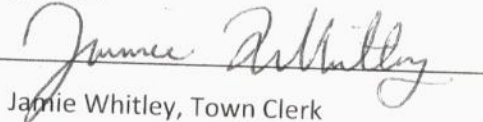
Recommendation to the Board of Commissioners:

The Planning Board finds action to amend Article IX Entrance District of the Town of Manteo's Zoning Code to be inconsistent with the Town's Land Use Plan per §160A-383, in a 5 to 0 vote, the Planning Board recommends that the Board of Commissioners deny the request to the Town's Zoning Code with the proposed language for Article IX Entrance District.

This the 11th day of May, 2021.


Sherry Wickstrom, Chair

ATTEST:


Jamie Whitley, Town Clerk

